

TOMAS SHAN, JR., COMPLAINANT, VS. HON. CANDIDO C. AGUINALDO, DISTRICT JUDGE, COURT OF FIRST INSTANCE, BRANCH IX, CEBU CITY, RESPONDENT.

Adm. Matter No. 2415-CFI. September 30, 1982

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

District Judge Candido C. Aguinaldo of the Court of First Instance, Branch IX, Cebu City stands administratively charged, in a letter-complaint not under oath,[1] for alleged gross negligence and/or incompetence for his refusal or failure without just cause, to:

"(1) Lift his restraining order dated August 13, 1979 restraining the City Court and City Sheriff of Cebu City from proceeding with the execution of the final judgment of said Court in Civil Case No. R-18599 in favor of private respondents who were plaintiffs in the said case; and

"(2) Resolve - i.e., dismissing the said petition for certiorari for lack of merit, after the said petition was submitted for decision seven (7) months ago, on October, 1979."

It appears that in an ejectment suit filed by the mother of the complainant, Juanita Bereso Go Shan, on June 21, 1976, against Delfinito Montesclaros for non-payment of rentals, in the City Court of Cebu City docketed as Civil Case No. R-18599, Judge Julian Pugoy of the aforesaid court, rendered a decision on March 29, 1977 in favor of the plaintiff therein which became final and executory on the basis of court order of October 25, 1978. Subsequently, a writ of execution and possession was issued on November 3, 1978.

Defendant in Civil Case No. R-18599, Delfinito Monteclaros assailed the decision in a petition for certiorari with preliminary injunction and damages in the Court of First Instance, Branch IX, Cebu City presided by herein respondent Judge Candido C. Aguinaldo, docketed as Civil Case No. R-18342 entitled "Delfinito Montesclaros vs. Hon. Judge Julian Pugoy, et al," praying for immediate issuance of restraining order.

On August 13, 1979, respondent issued a temporary restraining order enjoining the respondents therein from executing the judgment in Civil Case No. R-18599 of the Cebu City Court and from taking possession of the premises of the house and its surroundings presently occupied by the petitioners.

For failure to act on the motion to lift the restraining order and resolve the petition for certiorari with preliminary injunction and damages, submitted for decision on October 1979, followed by a motion for resolution filed on February 27, 1980, complainant Tomas Shan Jr. instituted the instant administrative charge in a letter-complaint dated May 26, 1980 for gross negligence and/or incompetence, praying for appropriate disciplinary action against respondent judge.

In his letter-complaint, Tomas Shan Jr. claimed that they are greatly prejudiced by the inaction of respondent judge because the City Court's decision in their favor in an ejectment suit filed by his late mother Juanita Bereso Go Shan against Delfinito Montesclaros became final and executory on October 25, 1978, and a writ of execution

and possession was issued on November 3, 1978 which, when served upon by the City Sheriff, was physically resisted by the defendant Montesclaros. In furtherance of his charges, complainant contended:

"The worst part is that Judge Aguinaldo issued his restraining order ex-parte, and refused or failed to lift it up to now although said Judge was informed by the private respondent that even before his right to appeal had prescribed, petitioner had not filed any approved supersedeas bond to guarantee payment of unpaid rentals at P100 per month from January 1976 up to the present, or a period of four (4) years now." [2]

Commenting on the charges, respondent judge, on July 18, 1980, brought to the attention of this Court the shortage of personnel in his sala where he stated that his sala has no branch clerk of court and legal researcher; that out of the three (3) stenographers of the court, only stenographer Erlinda Fanlo is rendering service everyday, and that she has several untranscribed stenographic notes for the past years which she has to transcribe, in addition to transcribing her stenographic notes of the daily court session; while the other one, Josephine Cainglet, has a pending administrative charge filed by him and has been detailed to the office of the Clerk of Court by the then Executive Judge Jose R. Ramolete, but has been absent without leave since March 21, 1980, and the other one, Vicente Ortiz, has filed on April 8, 1980 an application for retirement under R. A. No. 1146 due to defective hearing and presently is devoting his time in transcribing all pending untranscribed stenographic notes for the past years. [3]

In attributing his failure to dispose Civil Case No. R-18342 within the prescribed period of 90 days under Section 5 of Judiciary Act of 1948, [4] Judge Aguinaldo explained that his deputy clerk of court, Mr. Antonio Paraguya, failed to keep him abreast of the status of all cases that have been submitted for decision in violation of his standing instruction to keep him posted from time to time; that he came to know Civil Case No. R-18342 has been long overdue only when he received on July 8, 1980 the 1st indorsement from the Deputy Court Administrator of the Supreme Court requiring him to file comment/explanation.

In justifying the issuance of the temporary restraining order, he stated that he issued the temporary restraining order of August 13, 1979 as prayed for by the petitioner, and this is generally granted without notice to the party as its purpose is merely to compel the parties to maintain the matter in controversy in status quo until the application for the issuance of a preliminary injunction can be heard on notice and until further order; and that the contention that petitioner Montesclaros had not filed any approved superseades bond x x x is inaccurate and misleading since there is attached to the record of the case as alleged in the petition "the supersedeas bond of P4,250 and legal research fee of P5.00" and that whether or not such bond was approved is not in issue in the petition for certiorari. [5]

Likewise, in his comment, respondent judge requested for an extension of thirty (30) days from July 18, 1980, the date of his comment, within which to render a decision since he has criminal cases of detained prisoners still pending determination, coupled by his hectic schedule aggravated by lack of key personnel in his sala.

While We find that herein respondent judge cannot be subjected to administrative sanction by this Court for his alleged refusal to lift the temporary restraining order issued by him on August 13, 1979 and to dismiss the petition for certiorari with preliminary injunction and damages inasmuch as these matters fall within the legitimate exercise of respondent's discretion as dispenser of justice, however, his explanation for not acting upon said motion and petition after a lapse of seven (7) months since Civil Case No. R-18342, was submitted for decision sometime on October, 1979 is not satisfactory to totally exonerate him from disciplinary action. Likewise, while it may be true that in the instant case, there was no showing that the delay of seven (7) months was motivated by malice, ill-motive or merely done to do injustice against a party-litigant, We cannot, however, tolerate such undue delay of the respondent judge without calling his attention to the express mandate of Section 11 (1) Article X of the Constitution and Section 5, R. A. 296, otherwise known as the Judiciary Act of 1948. The law always abhors

delay in the dispensation of justice. His failure to act within the 90-day period attributed to lack of key personnel and the omission of his deputy clerk of court to keep him posted with the status of all pending cases is no excuse. This Court, under the circumstances, cannot accept the proffered justification of such inaction of the respondent judge for seven (7) months which clearly defeats the intent and spirit of Section 11 (1) Article X of the Constitution and Section 5 Republic Act 296, and is, therefore an inexcusable infringement thereof.

As early as 1923, this Court, thru Justice Malcolm, called the attention of Judges of inferior courts to the popular criticism of law's delay in our courts which lowers the standards of the courts and brings judges to disrepute.[6] According to Justice Malcolm, it can have no other result than the loss of evidence, the abandonment of cases, and the denial and frequent defeat of justice.[7] We cannot ignore nor countenance such undue delay of the respondent judge especially now when there are efforts to minimize, if not totally eradicate, the problem of congestion and delay long plaguing our courts. As a logical dictate of previous rulings of this Court relative to the proper imposition of administrative sanction, the justification invoked by the respondent may serve only to mitigate his administrative liability in view of the attendant circumstances in the herein case.[8]

Again, We stress the need to remind judges to exhibit more diligence and efficiency in the performance of their judicial duties to avoid the loss of faith and confidence in the administration of justice. In accordance with the express mandate of Section 1 Rule 135 of the Revised Rules of Court that "justice shall be impartially administered without unnecessary delay," it is the explicit duty of judges to judiciously apportion the court's time to achieve speedy dispatch of cases consistent with justice.[9] Accordingly, judges must not only be fully cognizant of the state of their dockets, likewise, they must keep a watchful eye on the level of performance and conduct of the court personnel under their immediate supervision who are primarily employed to aid in the administration of justice. Judges who set the pace of greater efficiency, diligence and dedication, would prompt their personnel to be more diligent and efficient in the performance of their duties. Leniency of a judge in administrative supervision of his employees is an undesirable trait.[10]

WHEREFORE, respondent Judge Candido C. Aguinaldo is hereby found to have violated the provisions of Section 11 (1) Article X of the Constitution and Section 5 of the Judiciary Act of 1948, is, accordingly, punished with a fine equivalent to his fifteen (15) days salary, and enjoined to strictly comply with the said provisions with the warning that a repetition of the same violation will be dealt with more severely. Let a copy of this resolution be spread in his record.

SO ORDERED.

Barredo, (Chairman), Concepcion, Jr., Guerrero, Abad Santos, and Escolin, JJ., concur. Aquino, J., no part.

[1] p. 1, Rollo.

[2] See letter-complaint, p. 1, Rollo.

[3] See comment, p. 6., Rollo.

[4] See also Section 11 (1) Article X of the New Constitution.

[5] p. 7, Rollo.

[6] In re Impeachment of Flordeliza, 44 Phil. 608.

[7] Ibid.

[8] Bendesula vs. Judge Laya, Adm. Matter No. 144-CFI, July 18, 1974, 58 SCRA 16 (1974); Yaranon vs. Rubio,

Adm. Matter No. 449-MJ, August 7, 1975, 66 SCRA 67 (1975); San Pedro vs. Judge Salvador, Adm. Matter No. 749-CFI, September 5, 1975, 66 SCRA 534, (1975); Magdamo vs. Judge Pahimulin, Adm. Matter No. 662-MJ, September 30, 1976, 73 SCRA 110; Guitante vs. Judge Bantuas, January 28, 1980.

[9] Rodriguez vs. Hon. Barro, Adm. Matter No. 1587-CTJ, August 23, 1978, 84 SCRA 663 (1978).

[10] Buenaventura vs. Benedicto, Adm. Matter No. 137-J, March 27, 1971, 38 SCRA 71 (1971).

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